

**Introduced by Committee on Public Safety (Senators McPherson
(Chair), Burton, Margett, Romero, Sher, and Vasconcellos)**

February 20, 2004

An act to amend Section 912 of the Evidence Code, to amend Section 3304 of the Government Code, to amend Sections 266h, 266i, 629.61, 1203.4a and 1405 of the Penal Code, and to amend Section 15763 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1796, as introduced, Committee on Public Safety. Public safety: omnibus bill.

Existing law establishes various evidentiary privileges, and provides for waiver of those privileges, as specified.

This bill would make a technical, nonsubstantive change to those provisions.

Existing law establishes a Peace Officer Bill of Rights and provides for various procedures in connection with discipline, as specified.

This bill would make a technical change correcting a cross-reference in those provisions.

Existing law defines the felonies of pimping and pandering. Existing law provides that where minors are engaged in acts of prostitution for purposes of those felonies, a convicted defendant is subject to registration as a sex offender, as specified.

This bill would make technical changes to those provisions to provide clarification for charging purposes and for purposes of sex offender registration.

Existing law requires a report be made to the Attorney General in connection with wiretap intercepts, as specified. Existing law also

requires that the report be made not less than 10 days after the order for the wiretap was issued.

This bill would require the report be made not more than 10 days after the order for the wiretap was issued.

By imposing additional duties on local government entities, this bill would impose a state-mandated local program.

Existing law provides a procedure for certain misdemeanants to obtain dismissal of accusatory pleadings and release from penalties and disabilities that result from the misdemeanor conviction. Existing law authorizes payment of a fee by the defendant to the county, court, and city, as specified, in connection with a motion to dismiss a charge under these provisions.

This bill would make technical changes to conform these provisions to other existing provisions of law.

Existing law requires reporting elder abuse as specified. Existing law also provides that a county shall not be required to report or respond to a report of elder abuse that involves danger to an elder or dependent adult residing in any facility for the incarceration of prisoners that is operated by or under contract to specified entities.

This bill would make a technical, nonsubstantive change to those provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 912 of the Evidence Code is amended
2 to read:



912. (a) Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege), 980 (privilege for confidential marital communications), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1033 (privilege of penitent), 1034 (privilege of clergyman), 1035.8 (sexual assault ~~victim-counselor~~ *counselor-victim* privilege), or 1037.5 (domestic violence ~~victim-counselor~~ *counselor-victim* privilege) is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has the legal standing and opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault ~~victim-counselor~~ *counselor-victim* privilege), or 1037.5 (domestic violence ~~victim-counselor~~ *counselor-victim* privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged is not a waiver of any privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault ~~victim-counselor~~ *counselor-victim* privilege), or 1037.5 (domestic violence ~~victim-counselor~~ *counselor-victim* privilege), when disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, physician, psychotherapist, sexual assault counselor, or domestic violence counselor was consulted, is not a waiver of the privilege.

1 SEC. 2. Section 3304 of the Government Code is amended to
2 read:

3 3304. (a) No public safety officer shall be subjected to
4 punitive action, or denied promotion, or be threatened with any
5 such treatment, because of the lawful exercise of the rights granted
6 under this chapter, or the exercise of any rights under any existing
7 administrative grievance procedure.

8 Nothing in this section shall preclude a head of an agency from
9 ordering a public safety officer to cooperate with other agencies
10 involved in criminal investigations. If an officer fails to comply
11 with such an order, the agency may officially charge him or her
12 with insubordination.

13 (b) No punitive action, nor denial of promotion on grounds
14 other than merit, shall be undertaken by any public agency against
15 any public safety officer who has successfully completed the
16 probationary period that may be required by his or her employing
17 agency without providing the public safety officer with an
18 opportunity for administrative appeal.

19 (c) No chief of police may be removed by a public agency, or
20 appointing authority, without providing the chief of police with
21 written notice and the reason or reasons therefor and an
22 opportunity for administrative appeal.

23 For purposes of this subdivision, the removal of a chief of police
24 by a public agency or appointing authority, for the purpose of
25 implementing the goals or policies, or both, of the public agency
26 or appointing authority, for reasons including, but not limited to,
27 incompatibility of management styles or as a result of a change in
28 administration, shall be sufficient to constitute “reason or
29 reasons.”

30 Nothing in this subdivision shall be construed to create a
31 property interest, where one does not exist by rule or law, in the job
32 of Chief of Police.

33 (d) Except as provided in this subdivision and subdivision (g),
34 no punitive action, nor denial of promotion on grounds other than
35 merit, shall be undertaken for any act, omission, or other allegation
36 of misconduct if the investigation of the allegation is not
37 completed within one year of the public agency’s discovery by a
38 person authorized to initiate an investigation of the allegation of
39 an act, omission, or other misconduct. This one-year limitation
40 period shall apply only if the act, omission, or other misconduct

1 occurred on or after January 1, 1998. In the event that the public
2 agency determines that discipline may be taken, it shall complete
3 its investigation and notify the public safety officer of its proposed
4 disciplinary action within that year, except in any of the following
5 circumstances:

6 (1) If the act, omission, or other allegation of misconduct is also
7 the subject of a criminal investigation or criminal prosecution, the
8 time during which the criminal investigation or criminal
9 prosecution is pending shall toll the one-year time period.

10 (2) If the public safety officer waives the one-year time period
11 in writing, the time period shall be tolled for the period of time
12 specified in the written waiver.

13 (3) If the investigation is a multijurisdictional investigation
14 that requires a reasonable extension for coordination of the
15 involved agencies.

16 (4) If the investigation involves more than one employee and
17 requires a reasonable extension.

18 (5) If the investigation involves an employee who is
19 incapacitated or otherwise unavailable.

20 (6) If the investigation involves a matter in civil litigation
21 where the public safety officer is named as a party defendant, the
22 one-year time period shall be tolled while that civil action is
23 pending.

24 (7) If the investigation involves a matter in criminal litigation
25 where the complainant is a criminal defendant, the one-year time
26 period shall be tolled during the period of that defendant's criminal
27 investigation and prosecution.

28 (8) If the investigation involves an allegation of workers'
29 compensation fraud on the part of the public safety officer.

30 (e) Where a predisciplinary response or grievance procedure is
31 required or utilized, the time for this response or procedure shall
32 not be governed or limited by this chapter.

33 (f) If, after investigation and any predisciplinary response or
34 procedure, the public agency decides to impose discipline, the
35 public agency shall notify the public safety officer in writing of its
36 decision to impose discipline, including the date that the discipline
37 will be imposed, within 30 days of its decision, except if the public
38 safety officer is unavailable for discipline.

(g) Notwithstanding the one-year time period specified in subdivision ~~(e)~~ (d), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (e) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

SEC. 3. Section 266h of the Penal Code is amended to read:

266h. (a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be ~~punished~~ punishable by imprisonment in the state prison for three, four, or six years.

(b) *Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punishable as follows:*

(1) If the person engaged in prostitution is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years. ~~¶~~

1 (2) *If* the person engaged in prostitution is under 16 years of
2 age, the offense is punishable by imprisonment in the state prison
3 for three, six, or eight years.

4 SEC. 4. Section 266i of the Penal Code is amended to read:

5 266i. (a) Except as provided in subdivision (b), any person
6 who does any of the following is guilty of pandering, a felony, and
7 shall be ~~punished~~ *punishable* by imprisonment in the state prison
8 for three, four, or six years:

9 (1) Procures another person for the purpose of prostitution.

10 (2) By promises, threats, violence, or by any device or scheme,
11 causes, induces, persuades or encourages another person to
12 become a prostitute.

13 (3) Procures for another person a place as an inmate in a house
14 of prostitution or as an inmate of any place in which prostitution
15 is encouraged or allowed within this state.

16 (4) By promises, threats, violence or by any device or scheme,
17 causes, induces, persuades or encourages an inmate of a house of
18 prostitution, or any other place in which prostitution is encouraged
19 or allowed, to remain therein as an inmate.

20 (5) By fraud or artifice, or by duress of person or goods, or by
21 abuse of any position of confidence or authority, procures another
22 person for the purpose of prostitution, or to enter any place in
23 which prostitution is encouraged or allowed within this state, or to
24 come into this state or leave this state for the purpose of
25 prostitution.

26 (6) Receives or gives, or agrees to receive or give, any money
27 or thing of value for procuring, or attempting to procure, another
28 person for the purpose of prostitution, or to come into this state or
29 leave this state for the purpose of prostitution.

30 (b) *Any person who does any of the acts described in*
31 *subdivision (a) with another person who is a minor is guilty of*
32 *pandering, a felony, and shall be punishable as follows:*

33 (1) If the other person is a minor over the age of 16 years, the
34 offense is punishable by imprisonment in the state prison for three,
35 four, or six years. ~~Where~~

36 (2) *If* the other person is under 16 years of age, the offense is
37 punishable by imprisonment in the state prison for three, six, or
38 eight years.

39 SEC. 5. Section 629.61 of the Penal Code is amended to read:

1 629.61. (a) Whenever an order authorizing an interception is
2 entered, the order shall require a report in writing or otherwise to
3 be made to the Attorney General showing what persons, facilities,
4 places, or any combination of these are to be intercepted pursuant
5 to the application, and the action taken by the judge on each of
6 those applications. The report shall be made at the interval that the
7 order may require, but not ~~less~~-more than 10 days after the order
8 was issued, and shall be made by any reasonable and reliable
9 means, as determined by the Attorney General.

10 (b) The Attorney General may issue regulations prescribing the
11 collection and dissemination of information collected pursuant to
12 this chapter.

13 (c) The Attorney General shall, upon the request of an
14 individual making an application for an interception order
15 pursuant to this chapter, provide any information known as a result
16 of these reporting requirements and in compliance with paragraph
17 (6) of subdivision (a) of Section 629.50.

18 SEC. 6. Section 1203.4a of the Penal Code is amended to
19 read:

20 1203.4a. (a) Every defendant convicted of a misdemeanor
21 and not granted *formal supervised* probation shall, at any time after
22 the lapse of one year from the date of pronouncement of judgment,
23 if he or she has fully complied with and performed the sentence of
24 the court, is not then serving a sentence for any offense and is not
25 under charge of commission of any crime and has, since the
26 pronouncement of judgment, lived an honest and upright life and
27 has conformed to and obeyed the laws of the land, be permitted by
28 the court to withdraw his or her plea of guilty or nolo contendere
29 and enter a plea of not guilty; or if he or she has been convicted
30 after a plea of not guilty, the court shall set aside the verdict of
31 guilty; and in either case the court shall thereupon dismiss the
32 accusatory pleading against the defendant, who shall thereafter be
33 released from all penalties and disabilities resulting from the
34 offense of which he or she has been convicted, except as provided
35 in Section 12021.1 of this code or Section 13555 of the Vehicle
36 Code. The defendant shall be informed of the provisions of this
37 section, either orally or in writing, at the time he or she is
38 sentenced. The defendant may make an application and change of
39 plea in person or by attorney, or by the probation officer authorized
40 in writing; provided, that in any subsequent prosecution of the

1 defendant for any other offense, the prior conviction may be
2 pleaded and proved and shall have the same effect as if relief had
3 not been granted pursuant to this section.

4 This subdivision applies to convictions which occurred before
5 as well as those occurring after, the effective date of this section.

6 (b) Subdivision (a) does not apply to any misdemeanor falling
7 within the provisions of subdivision (b) of Section 42001 of the
8 Vehicle Code, or to any infraction.

9 (c) A person who petitions for a dismissal of a charge under this
10 section may be required to reimburse the ~~county and the court~~ for
11 the cost of services rendered at a rate to be determined ~~by the~~
12 ~~county board of supervisors for the county and by the court for the~~
13 ~~court, not to exceed sixty dollars (\$60), and to reimburse any city~~
14 ~~for the cost of services rendered at a rate to be determined by the~~
15 ~~city council not to exceed sixty dollars (\$60).~~ Ability to make this
16 reimbursement shall be determined by the court using the
17 standards set forth in paragraph (2) of subdivision (f) of Section
18 987.8 and shall not be a prerequisite to a person's eligibility under
19 this section. The court may order reimbursement in any case in
20 which the petitioner appears to have the ability to pay, without
21 undue hardship, all or any portion of the cost for services
22 established pursuant to this subdivision.

23 (d) Any determination of amount made by a court under this
24 section shall be valid only if either (1) made under procedures
25 adopted by the Judicial Council or (2) approved by the Judicial
26 Council.

27 SEC. 7. Section 1405 of the Penal Code is amended to read:

28 1405. (a) A person who was convicted of a felony and is
29 currently serving a term of imprisonment may make a written
30 motion before the trial court that entered the judgment of
31 conviction in his or her case, for performance of forensic
32 deoxyribonucleic acid (DNA) testing.

33 (b) (1) An indigent convicted person may request appointment
34 of counsel to prepare a motion under this section by sending a
35 written request to the court. The request shall include the person's
36 statement that he or she was not the perpetrator of the crime and
37 that DNA testing is relevant to his or her assertion of innocence.
38 The request also shall include the person's statement as to whether
39 he or she previously has had counsel appointed under this section.

(2) If any of the information required in paragraph (1) is missing from the request, the court shall return the request to the convicted person and advise him or her that the matter cannot be considered without the missing information.

(3) (A) Upon a finding that the person is indigent, he or she has included the information required in paragraph (1), and counsel has not previously been appointed pursuant to this subdivision, the court shall appoint counsel to investigate and, if appropriate, to file a motion for DNA testing under this section and to represent the person solely for the purpose of obtaining DNA testing under this section.

(B) Upon a finding that the person is indigent, and counsel previously has been appointed pursuant to this subdivision, the court may, in its discretion, appoint counsel to investigate and, if appropriate, to file a motion for DNA testing under this section and to represent the person solely for the purpose of obtaining DNA testing under this section.

(4) Nothing in this section shall be construed to provide for a right to the appointment of counsel in a postconviction collateral proceeding, or to set a precedent for any such right, in any context other than the representation being provided an indigent convicted person for the limited purpose of filing and litigating a motion for DNA testing pursuant to this section.

(c) (1) The motion shall be verified by the convicted person under penalty of perjury and shall do all of the following:

(A) Explain why the identity of the perpetrator was, or should have been, a significant issue in the case.

(B) Explain, in light of all the evidence, how the requested DNA testing would raise a reasonable probability that the convicted person's verdict or sentence would be more favorable if the results of DNA testing had been available at the time of conviction.

(C) Make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing sought.

(D) Reveal the results of any DNA or other biological testing that was conducted previously by either the prosecution or defense, if known.

(E) State whether any motion for testing under this section previously has been filed and the results of that motion, if known.

(2) Notice of the motion shall be served on the Attorney General, the district attorney in the county of conviction, and, if known, the governmental agency or laboratory holding the evidence sought to be tested. Responses, if any, shall be filed within 60 days of the date on which the Attorney General and the district attorney are served with the motion, unless a continuance is granted for good cause.

(d) If the court finds evidence was subjected to DNA or other forensic testing previously by either the prosecution or defense, it shall order the party at whose request the testing was conducted to provide all parties and the court with access to the laboratory reports, underlying data, and laboratory notes prepared in connection with the DNA or other biological evidence testing.

(e) The court, in its discretion, may order a hearing on the motion. The motion shall be heard by the judge who conducted the trial, or accepted the convicted person's plea of guilty or nolo contendere, unless the presiding judge determines that judge is unavailable. Upon request of either party, the court may order, in the interest of justice, that the convicted person be present at the hearing of the motion.

(f) The court shall grant the motion for DNA testing if it determines all of the following have been established:

(1) The evidence to be tested is available and in a condition that would permit the DNA testing requested in the motion.

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced or altered in any material aspect.

(3) The identity of the perpetrator of the crime was, or should have been, a significant issue in the case.

(4) The convicted person has made a prima facie showing that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime, special circumstance, or enhancement allegation that resulted in the conviction or sentence.

(5) The requested DNA testing results would raise a reasonable probability that, in light of all the evidence, the convicted person's verdict or sentence would have been more favorable if the results of DNA testing had been available at the time of conviction. The court in its discretion may consider any evidence whether or not it was introduced at trial.

(6) The evidence sought to be tested meets either of the following conditions:

(A) The evidence was not tested previously.

(B) The evidence was tested previously, but the requested DNA test would provide results that are reasonably more discriminating and probative of the identity of the perpetrator or accomplice or have a reasonable probability of contradicting prior test results.

(7) The testing requested employs a method generally accepted within the relevant scientific community.

(8) The motion is not made solely for the purpose of delay.

(g) (1) If the court grants the motion for DNA testing, the court order shall identify the specific evidence to be tested and the DNA technology to be used. ~~The~~

(2) ~~The~~ testing shall be conducted by a laboratory mutually agreed upon by the district attorney in a noncapital case, or the Attorney General in a capital case, and the person filing the motion. If the parties cannot agree, the court shall designate the laboratory to conduct the testing and shall consider designating a laboratory accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB).

(h) The result of any testing ordered under this section shall be fully disclosed to the person filing the motion, the district attorney, and the Attorney General. If requested by any party, the court shall order production of the underlying laboratory data and notes.

(i) (1) The cost of DNA testing ordered under this section shall be borne by the state or the applicant, as the court may order in the interests of justice, if it is shown that the applicant is not indigent and possesses the ability to pay. However, the cost of any additional testing to be conducted by the district attorney or Attorney General shall not be borne by the convicted person.

(2) In order to pay the state's share of any testing costs, the laboratory designated in subdivision ~~(e)~~ (g) shall present its bill for services to the superior court for approval and payment. It is the intent of the Legislature to appropriate funds for this purpose in the 2000–01 Budget Act.

(j) An order granting or denying a motion for DNA testing under this section shall not be appealable, and shall be subject to review only through petition for writ of mandate or prohibition filed by the person seeking DNA testing, the district attorney, or

the Attorney General. The petition shall be filed within 20 days after the court's order granting or denying the motion for DNA testing. In a noncapital case, the petition for writ of mandate or prohibition shall be filed in the court of appeal. In a capital case, the petition shall be filed in the California Supreme Court. The court of appeal or California Supreme Court shall expedite its review of a petition for writ of mandate or prohibition filed under this subdivision.

(k) DNA testing ordered by the court pursuant to this section shall be done as soon as practicable. However, if the court finds that a miscarriage of justice will otherwise occur and that it is necessary in the interests of justice to give priority to the DNA testing, a DNA laboratory shall be required to give priority to the DNA testing ordered pursuant to this section over the laboratory's other pending casework.

(l) DNA profile information from biological samples taken from a convicted person pursuant to a motion for postconviction DNA testing is exempt from any law requiring disclosure of information to the public.

(m) Notwithstanding any other provision of law, the right to file a motion for postconviction DNA testing provided by this section is absolute and shall not be waived. This prohibition applies to, but is not limited to, a waiver that is given as part of an agreement resulting in a plea of guilty or nolo contendere.

(n) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. Section 15763 of the Welfare and Institutions Code is amended to read:

15763. (a) Each county shall establish an emergency response adult protective services program that shall provide in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult, for the purpose of providing immediate intake or intervention, or both, to new reports involving immediate life threats and to crises in existing cases. The program shall include policies and procedures to accomplish all of the following:

(1) Provision of case management services that include investigation of the protection issues, assessment of the person's

1 concerns, needs, strengths, problems, and limitations, stabilization
2 and linking with community services, and development of a
3 service plan to alleviate identified problems utilizing counseling,
4 monitoring, followup, and reassessment.

5 (2) Provisions for emergency shelter or in-home protection to
6 guarantee a safe place for the elder or dependent adult to stay until
7 the dangers at home can be resolved.

8 (3) Establishment of multidisciplinary teams to develop
9 interagency treatment strategies, to ensure maximum coordination
10 with existing community resources, to ensure maximum access on
11 behalf of elders and dependent adults, and to avoid duplication of
12 efforts.

13 (b) (1) A county shall respond immediately to any report of
14 imminent danger to an elder or dependent adult residing in other
15 than a long-term care facility, as defined in Section 9701 of the
16 Welfare and Institutions Code, or a residential facility, as defined
17 in Section 1502 of the Health and Safety Code. For reports
18 involving persons residing in a long-term care facility or a
19 residential care facility, the county shall report to the local
20 long-term care ombudsman program. Adult protective services
21 staff shall consult, coordinate, and support efforts of the
22 ombudsman program to protect vulnerable residents. Except as
23 specified in paragraph (2), the county shall respond to all other
24 reports of danger to an elder or dependent adult in other than a
25 long-term care facility or residential care facility within 10
26 calendar days or as soon as practicably possible.

27 (2) An immediate or 10-day in-person response is not required
28 when the county, based upon an evaluation of risk, determines and
29 documents that the elder or dependent adult is not in imminent
30 danger and that an immediate or 10-day in-person response is not
31 necessary to protect the health or safety of the elder or dependent
32 adult.

33 (3) The State Department of Social Services, in consultation
34 with the County Welfare Directors Association, shall develop
35 requirements for implementation of paragraph (2), including, but
36 not limited to, guidelines for determining appropriate application
37 of this section and any applicable documentation requirements.

38 (4) Notwithstanding Chapter 3.5 (commencing with Section
39 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
40 the department shall implement the requirements developed

pursuant to paragraph (3) by means of all-county letters or similar instructions prior to adopting regulations for that purpose. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A county shall not be required to report or respond to a report pursuant to subdivision (b) that involves danger to an elder or dependent adult residing in any facility for the incarceration of prisoners that is operated by or under contract to the Federal Bureau of Prisons, the Department of Corrections, the California Department of the Youth Authority, a county sheriff's department, *a county probation department*, a city police department, or any other law enforcement agency when the abuse reportedly has occurred in that facility.

(d) A county shall provide case management services to elders and dependent adults who are determined to be in need of adult protective services for the purpose of bringing about changes in the lives of victims and to provide a safety net to enable victims to protect themselves in the future. Case management services shall include the following, to the extent services are appropriate for the individual:

(1) Investigation of the protection issues, including, but not limited to, social, medical, environmental, physical, emotional, and developmental.

(2) Assessment of the person's concerns and needs on whom the report has been made and the concerns and needs of other members of the family and household.

(3) Analysis of problems and strengths.

(4) Establishment of a service plan for each person on whom the report has been made to alleviate the identified problems.

(5) Client input and acceptance of proposed service plans.

(6) Counseling for clients and significant others to alleviate the identified problems and to implement the service plan.

(7) Stabilizing and linking with community services.

(8) Monitoring and followup.

(9) Reassessments, as appropriate.

(e) To the extent resources are available, each county shall provide emergency shelter in the form of a safe haven or in-home protection for victims. Shelter and care appropriate to the needs of

1 the victim shall be provided for frail and disabled victims who are
2 in need of assistance with activities of daily living.

3 (f) Each county shall designate an adult protective services
4 agency to establish and maintain multidisciplinary teams
5 including, but not limited to, adult protective services, law
6 enforcement, probation departments, home health care agencies,
7 hospitals, adult protective services staff, the public guardian,
8 private community service agencies, public health agencies, and
9 mental health agencies for the purpose of providing interagency
10 treatment strategies.

11 (g) Each county shall provide tangible support services, to the
12 extent resources are available, which may include, but not be
13 limited to, emergency food, clothing, repair or replacement of
14 essential appliances, plumbing and electrical repair, blankets,
15 linens, and other household goods, advocacy with utility
16 companies, and emergency response units.

17 SEC. 9. Notwithstanding Section 17610 of the Government
18 Code, if the Commission on State Mandates determines that this
19 act contains costs mandated by the state, reimbursement to local
20 agencies and school districts for those costs shall be made pursuant
21 to Part 7 (commencing with Section 17500) of Division 4 of Title
22 2 of the Government Code. If the statewide cost of the claim for
23 reimbursement does not exceed one million dollars (\$1,000,000),
24 reimbursement shall be made from the State Mandates Claims
25 Fund.

